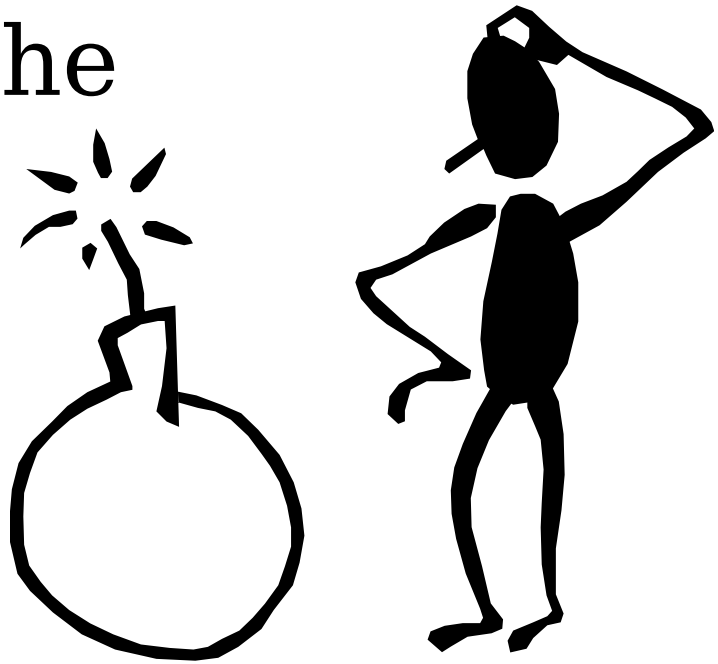
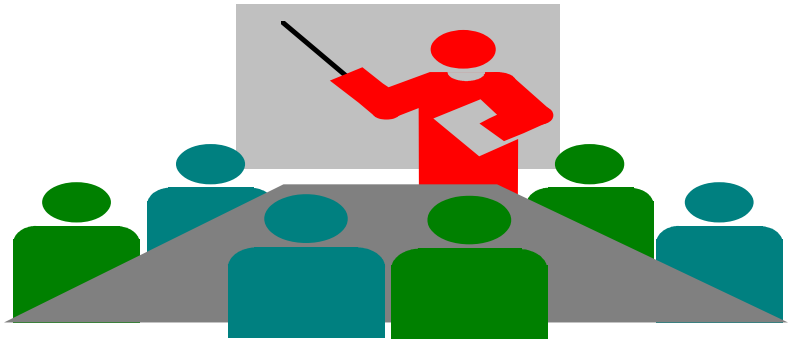
Settlement Agreements

Traps for the Unwary





OVERVIEW

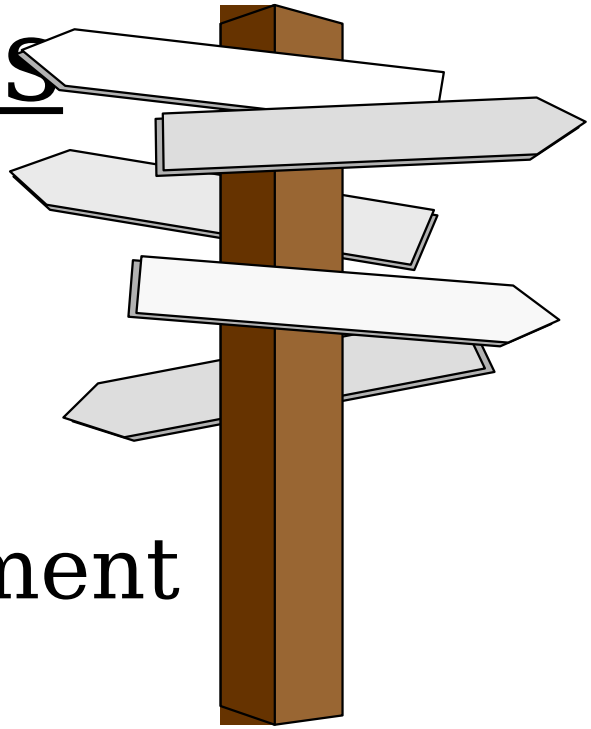
Settlement Methods

Accord and Satisfaction

Releases

Discharge by Final Payment

Settlement Methods



Supplemental Agreement

Stand-Alone Settlement

Agreement

Stipulated Judgment

Claims Settlements

- Document Basis, Relief Sought
- Negotiate Full Impact
- Get Full, Complete Release
- Immediate Vs. Future Payments
- Contract Funding Limitations

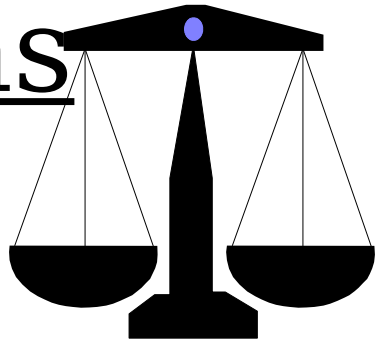
Bilateral Modifications

No Release

Broad, General Release

Comprehensive, Specific Release

Litigated Claims



Courts

– Exclusive Attorney General

Settlement Authority

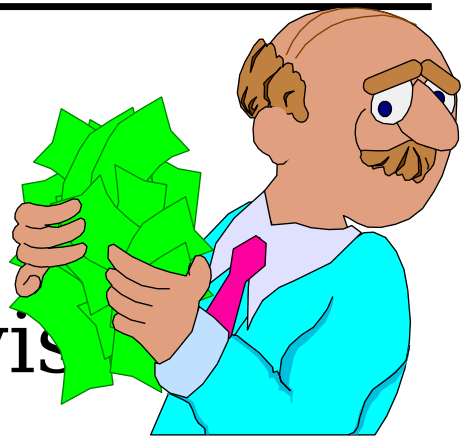
Boards of Contract Appeals

– Contracting Officers

Retain Settlement Authority

Fiscal Law Implications

Litigation Settlements

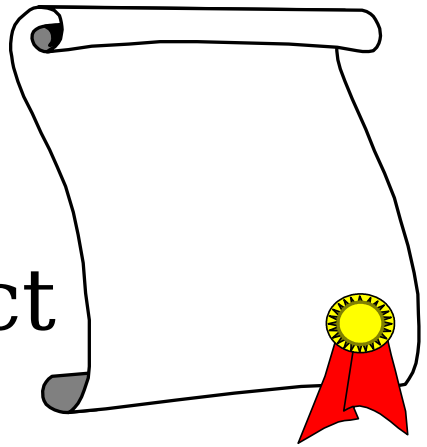


Contract Payment Provis

Risk of Dual Liability

Attorney Fees/Litigation Expenses

Accord and Satisfaction



What it is

Substituted Contract

Executory Accord

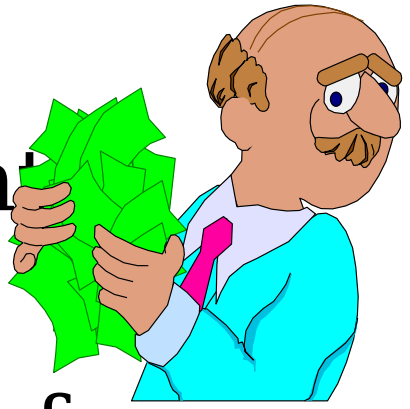
Significance of Distinction

Releases

Recommended Example

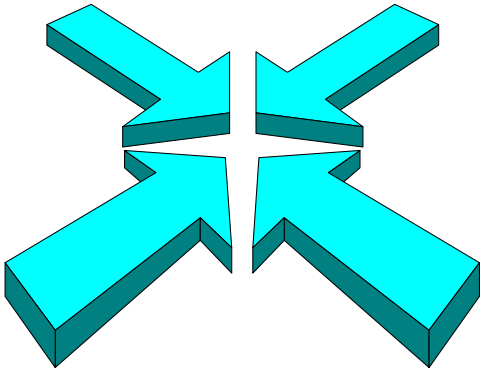
- Full/Complete Settlement
- Rights to Equitable Adjustment
- Damages/Other Relief
- Basis of Claim
- Interest
- Attorney Fees/Litigation Expenses
- Dismissal with Prejudice

Final Payment Doctrine



What is “Final Payment”

General Presumption of Discharge



Contract Clauses

Government Claims

General Releases Incident to Final Payment

When Required?

Interpretation of Sco

Excepted Claims

Executory Accord

When Is Final Payment "Final?"